

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Emlyn Cameron	Team: Squad #12	CCRB Case #: 201905567	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 06/24/2019 3:00 AM	Location of Incident: § 87(2)(b)	Precinct: 88	18 Mo. SOL 12/24/2020	EO SOL 8/10/2021	
Date/Time CV Reported Tue, 06/25/2019 3:09 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 06/25/2019 3:09 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Renan Darbouze	13128	942741	088 PCT
2. POM Hector Nieves	18295	961978	088 PCT
3. POM Raymond Ng	18218	958448	088 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Cherita Gray	26029	947761	088 PCT
2. POF Kanisha Smith	12210	961306	088 PCT
3. POM Maxim Paul	17531	959051	088 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Renan Darbouze	Abuse: Police Officer Renan Darbouze threatened § 87(2)(b) with the use of force.	§ 87(2)(b)
B.POM Raymond Ng	Force: Police Officer Raymond Ng used physical force against § 87(2)(b)	§ 87(2)(b)
C.POM Hector Nieves	Force: Police Officer Hector Nieves used physical force against § 87(2)(b)	§ 87(2)(b)
D.POM Renan Darbouze	Force: Police Officer Renan Darbouze used physical force against § 87(2)(b)	§ 87(2)(b)

Case Summary

On June 25, 2019, § 87(2)(b) filed this complaint with the Civilian Complaint Review Board on behalf of herself.

On June 24, 2019, at approximately 3:00AM, officers, including PO Cherita Gray, PO Renan Darbouze, PO Hector Nieves, PO Maxim Paul, and PO Kaneshia Smith, and PO Raymond Ng, all of the 88th Precinct, responded to a call regarding a dispute between § 87(2)(b) and § 87(2)(b) at § 87(2)(b), in Brooklyn. § 87(2)(b) was arrested and, as she was escorted from the building, PO Darbouze asked her, “You want to be tased?” (**Allegation A: Abuse of Authority**, § 87(2)(g) § 87(2)(b) then attempted to leave the elevator, and PO Ng stopped her from doing so (**Allegation B: Force**, § 87(2)(g) § 87(2)(b).

After § 87(2)(b) had been removed from the apartment, officers pulled § 87(2)(b) from the apartment in order to remove him (**Allegation C: Force**, § 87(2)(g) **Allegation D: Force**, § 87(2)(g) § 87(2)(b) was not arrested or summonsed.

Video footage obtained in this case was recorded by PO Gray (Board Review 13; Summary in Board Review 24), PO Darbouze (Board Review 04; Summary in Board Review 25; Board Review 15; Summary in Board Review 30), PO Nieves (Board Review 12; Summary in Board Review 26), PO Smith (Board Review 14; Summary in Board Review 27), PO Paul (Board Review 07; Summary in Board Review 28), and PO Ng (Board Review 01; Summary in Board Review 29) on their Body-Worn Cameras (BWCs).

Findings and Recommendations

Allegation (A) Abuse of Authority: PO Renan Darbouze threatened § 87(2)(b) with the use of force.

It is undisputed that on June 24, 2019, at approximately 3:00AM, officers responded to calls relating to a domestic incident at § 87(2)(b) in Brooklyn, which is the apartment of § 87(2)(b). § 87(2)(b) wanted § 87(2)(b) removed from her apartment. Officers observed injuries on § 87(2)(b). Officers placed § 87(2)(b) under arrest for assault and PO Darbouze, PO Ng, and PO Paul escorted her out of the building. In order to do so, PO Darbouze, PO Ng, and PO Paul used the buildings elevator to take her to the ground floor.

At 00:17:35 in PO Ng’s BWC footage (Board Review 01), the elevator door opens on the § 87(2)(b) floor. § 87(2)(b) is rear cuffed and standing in front of the door, partially obscuring PO Ng’s view of it. PO Paul stands to the left of § 87(2)(b) and PO Darbouze to her right. PO Paul tries to guide her into the elevator. She pulls back. PO Darbouze and PO Paul guide her most of the way into the elevator. At 00:17:50, PO Ng looks down and the camera shows § 87(2)(b) § 87(2)(b)’s leg outside the elevator door. PO Ng pulls her leg free with his hands, and places it back into the elevator. Approximately a second later, at 00:17:52, PO Darbouze can be seen and heard to ask, “You want to be tased?” § 87(2)(b) § 87(2)(b) says that she will bring attention to the violation of her rights by police officers and that they do not have the right to use a Taser upon her. PO Ng having removed § 87(2)(b) § 87(2)(b)’s foot from the door, the elevator closes and descends. § 87(2)(b) continues to tell the officers at high volume that she believes her rights are being violated. The elevator door opens on the second floor and she again places her foot outside the door of the elevator. PO Ng again brings her foot inside the elevator, but the video does not capture how he does so.

In § 87(2)(b)'s statement to the CCRB, (Board Review 02) she stated that PO Darbouze and PO Ng took her into an elevator to exit the building. As § 87(2)(b) entered the elevator, she put her left foot out the door to prevent it closing. PO Ng removed her foot from its hooked position, after which she was escorted to the 88th Precinct stationhouse.

PO Darbouze stated (Board Review 03) that he did not recall who removed § 87(2)(b) from the apartment and did not believe there was any difficulty in doing so. He, PO Ng, and PO Paul entered the elevator with § 87(2)(b). Upon being shown his BWC footage (Board Review 04), PO Darbouze affirmed that he asked § 87(2)(b) "Do you want to get tased?" When asked whether an officer could have used a Taser against § 87(2)(b) PO Darbouze stated, "I don't believe so. She was already handcuffed. I don't believe so." When asked why he said this, the CCRB interviewer, PO Darbouze, and PO Darbouze's counsel then engaged in the following exchange between 00:28:00 and 00:28:17 in the recording:

Interviewer: Ok, alright. Why did you say that?

Darbouze: That was something that came out toward the-

Counsel: But why? Why though?

Darbouze: Because I didn't want her to elevate to something more.

Interviewer: Ok.

Counsel: You were trying to deescalate the situation?

Darbouze: Deescalate the situation. Not to elevate – yeah, correct.

PO Darbouze does not further discuss § 87(2)(b)'s actions with regard to her attempt to impede the elevator.

NYPD Patrol Guide Procedure 221-08 regarding the use of conducted energy weapons states, "A conducted energy weapon should never be used in cartridge or drive stun mode on a rear-cuffed prisoner." (Board Review 05)

Patrol Guide Procedure 221-01 regarding the use of force (Board Review 06) states that a de-escalatory action is one taken "to stabilize a situation and [...] to gain the voluntary compliance of the subject, when appropriate and consistent with personal safety, to reduce or eliminate the necessity to use force."

§ 87(2)(g)

Allegation (B) Force: PO Raymond Ng used physical force against § 87(2)(b)

It is undisputed that officers responded to calls relating to a domestic incident at the apartment of § 87(2)(b). PO Darbouze, PO Ng, and PO Paul escorted § 87(2)(b) who had been placed under arrest, out of the building. In order to do so, PO Darbouze, PO Ng, and PO Paul used the buildings elevator to take her to the ground floor.

§ 87(2)(b) stated that, after she was escorted to the elevator and used her foot to stop the door from closing, PO Ng stepped in front of her and stomped on the arch of her foot, which caused § 87(2)(b) pain. § 87(2)(b) brought her foot into the elevator.

Though some of the body-worn cameras recording in the elevator show § 87(2)(b) using her foot to stop the elevator door on the fifth floor, and attempting to leave the elevator on the second floor, and PO Ng attempting to bring her back into the elevator, none captures her foot or PO Ng's lower body at the moment when PO Ng is alleged to have kicked her (Board Review 01, Board Review 04, and Board Review 07). The only relevant material is conversation captured after the moment of the alleged incident, when § 87(2)(b) is being placed in the police vehicle and she says that PO Ng had kicked her. (Board Review 01, Board Review 04, Board Review 07)

PO Ng stated (Board Review 08) that he, PO Paul, and PO Darbouze escorted § 87(2)(b) to the elevator from her apartment. The elevator stopped on the wrong floor, and § 87(2)(b) moved towards the door and hooked a foot around it, keeping it from closing. PO Ng used his foot to lift § 87(2)(b)'s foot from the doorframe and then pull it inside the elevator. He denied that he kicked her in the process of removing her foot.

PO Darbouze stated that when the elevator reached the second floor, it stopped, and § 87(2)(b) tried to leave through the door. Officers stopped her from doing this, but PO Darbouze did not recall how. He affirmed that PO Ng used physical force and may have pulled her back into the elevator, but PO Darbouze did not see him kick her or attempt to do so.

PO Paul stated (Board Review 09) he and PO Ng escorted § 87(2)(b) to the elevator but he did not recall any trouble getting § 87(2)(b) into the elevator or much about what transpired inside the elevator. After being shown PO Darbouze's BWC footage, PO Paul did not recall any use of force by PO Ng not documented in the video.

A form search for Threat Resistance Injury reports relating to § 87(2)(b)'s arrest had negative results (Board Review 10). The Arrest Report states that no force was used (Board Review 11).

§ 87(2)(g)

Allegation (C) Force: PO Hector Nieves used physical force against § 87(2)(b)

Allegation (D) Force: PO Renan Darbouze used physical force against § 87(2)(b)

It is undisputed that after § 87(2)(b) was removed from the apartment, officers allowed § 87(2)(b) to enter the apartment. Once inside the apartment, an altercation occurred between officers and § 87(2)(b).

§ 87(2)(b) stated that, after her release she had returned to her apartment and found it in disarray. Her fish tank had been damaged and § 87(2)(b)'s aunt, informed her that the damage had been caused by an altercation between officers and § 87(2)(b).

§ 87(2)(b) did not provide a statement to the CCRB regarding the incident.

In PO Nieves' BWC footage (Board Review 12), at 00:16:05 minutes into the recording, § 87(2)(b) asks for his shoes and says to PO Darbouze, "Just let me walk away, just let me walk away." § 87(2)(b) walks towards the stairs and stumbles a bit. PO Darbouze and PO Nieves approach him. He

sits on the stairs and asks again if he can get his shoes and “go away from here.” At 00:17:00, PO Darbouze says § 87(2)(b) has to stay to look after the children when § 87(2)(b) is removed. § 87(2)(b) says, “I can’t.” He then explains that he will not be allowed to stay because § 87(2)(b) owns the apartment. At 00:17:32, PO Nieves asks how long § 87(2)(b) has been at the apartment. At 00:17:40, § 87(2)(b) says four years. At 00:18:00, PO Nieves explains that § 87(2)(b) cannot have § 87(2)(b) removed without going to court if he has been living there for thirty days. Then, after § 87(2)(b) is told that he should stay with his children and § 87(2)(b) will not be there, § 87(2)(b) says he will stay and PO Nieves says at 00:18:23 that they “have a deal.” At 01:02:40, § 87(2)(b) enters the apartment. § 87(2)(b) is in the apartment for 18 minutes and 25 seconds. Officers repeatedly instruct him to gather his affects and leave the apartment. He verbally refuses to do so, tells officers to leave, and does not exit the apartment. At 01:15:04 minutes, PO Darbouze walks towards § 87(2)(b) and says, “Ok now we’re going to make you leave, let’s go.” PO Darbouze’s actions from 1:15:04 and 01:15:11 minutes is obstructed by the body of PO Smith. At 01:15:11, PO Darbouze is seen holding § 87(2)(b)’s wrist. § 87(2)(b) pulls away, and there is a struggle as PO Darbouze attempts to pull him back by the right shoulder and at 01:15:16, PO Nieves can be seen gripping § 87(2)(b)’s wrist in his own hand. Officers Darbouze and Nieves grip and pull on § 87(2)(b)’s arms and § 87(2)(b) attempt to break away. At 01:15:43 in PO Nieves video, PO Darbouze says to § 87(2)(b) “We’re going push you out, or you can come out here.” At 01:15:49 there is a sound of spilling water and at 01:15:50, § 87(2)(b) begins to say, “My tank,” in reference to his fish tank, which is now spilling its contents on the floor. The officers remove § 87(2)(b) from the apartment, at which point they cease to use force.

In PO Gray’s BWC video (Board Review 13), at 00:06:03 minutes, she asks whose apartment it is and § 87(2)(b) says that it is both his and § 87(2)(b)’s and clarifies that hers is the name on the lease but he pays for everything. At 00:12:24, § 87(2)(b) stands up from some stairs on which he is sitting and repeatedly says he is “just going to go” and that he “wants to walk”. He asks if he can grab his belongings. PO Gray says officers will retrieve them. At 00:56:04, § 87(2)(b) says he does not want to fill out a report, he just wants his sneakers, socks, and money. PO Gray asks where his belongings are so he can leave the premises. § 87(2)(b) says they are in the apartment and PO Gray says they will open the door and allow him to grab his things. At 00:58:50, § 87(2)(b) says he does not have keys that can open the door to the apartment. The officers have § 87(2)(b) open the door. And at 01:02:42, § 87(2)(b) enters the apartment. From this point forward, the footage from the body-worn cameras assigned to PO Gray, as well as PO Smith (Board Review 14) and PO Darbouze (Board Review 15) are largely consistent with the footage captured by PO Nieve’s body-worn camera.

PO Gray stated (Board Review 16) that while discussing how § 87(2)(b) had sustained his injuries, she informed the officers that § 87(2)(b) was not on the lease and did not have keys to the apartment. PO Gray also had previous experience with § 87(2)(b) and § 87(2)(b) that led her to believe § 87(2)(b) did not have the right to remain in the apartment against § 87(2)(b)’s wishes. After § 87(2)(b) was arrested and removed from the apartment, PO Darbouze, PO Nieves, and PO Gray brought § 87(2)(b) into the apartment so that he could retrieve his belongings. Once inside, § 87(2)(b) was slow to respond to instructions to gather his personal affects and leave. These instructions were repeated numerous times. § 87(2)(b) did not comply. PO Gray did not recall how long this went on, but it was many minutes. Once § 87(2)(b) had his work clothes, PO Darbouze and PO Nieves told him it was time to go, which he refused to do. PO Darbouze and PO Nieves grabbed his arms and tried to pull him out of the apartment. § 87(2)(b) pulled back against this, leading to a five-to-ten-minute struggle in which § 87(2)(b) fell against a fish tank, cracking it. After this he was removed from the apartment. There is nothing to indicate § 87(2)(b) suffered injuries as a result of being removed from the apartment.

PO Smith stated (Board Review 17) that § 87(2)(b) had said she wanted § 87(2)(b) removed when she was gone. PO Smith did not look for the lease. While inside the apartment, § 87(2)(b) did not produce keys to the door. Officers told § 87(2)(b) to leave at least five times. Officers employed no strikes to remove him.

PO Darbouze stated that § 87(2)(b) had said § 87(2)(b) was not on the lease and could not remain in the apartment without her consent. PO Darbouze did not see the lease and § 87(2)(b) never provided documentation to the contrary. After § 87(2)(b) was removed, PO Darbouze, PO Gray, PO Smith, and PO Nieves allowed § 87(2)(b) into the apartment so § 87(2)(b) could retrieve his belongings. All officers told § 87(2)(b) to get his belongings and leave multiple times. § 87(2)(b) replied repeatedly that he would not leave. After an extended period, § 87(2)(b) gathered his things, though PO Darbouze did not recall how long this took. Once this was done, § 87(2)(b) was again instructed to leave, and he did not. PO Darbouze pulled on his arms to remove him from the apartment. PO Darbouze did not use any other force.

PO Nieves stated (Board Review 18) that § 87(2)(b) asked to retrieve property from the apartment. PO Darbouze, PO Gray, PO Smith, and PO Nieves brought § 87(2)(b) into the apartment and allowed him to remain inside for approximately thirty minutes. PO Nieves removed § 87(2)(b)'s shoes from the apartment towards the end of the officers' time in the apartment. § 87(2)(b) yelled at PO Nieves for removing § 87(2)(b)'s shoes. PO Nieves approached § 87(2)(b) and put him in a bear hug. § 87(2)(b) pushed back against this and PO Nieves moved backwards and struck a fish tank, cracking it. PO Darbouze moved towards § 87(2)(b) and pulled him away from PO Nieves. PO Darbouze may have pulled on § 87(2)(b)'s arms, but PO Nieves was not sure. PO Nieves wrapped his arms around § 87(2)(b) to remove him from the apartment.

Patrol Guide Procedure 221-01 states that “[i]n all circumstances, any application or use of force must be reasonable under the circumstances. If the force used is unreasonable under the circumstances, it will be deemed excessive and in violation of Department policy.” It further states that, “[w]hen appropriate and consistent with personal safety, members of the service will use de-escalation techniques to safely gain voluntary compliance from a subject to reduce or eliminate the necessity to use force.”

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Civilian and Officer CCRB Histories

- § 87(2)(b) has been party to two previous CCRB complaints and has been named as a victim in three allegations. (Board Review 19).
 - § 87(2)(b)
- § 87(2)(b) has been party to one previous CCRB complaint and was named as a victim in one allegation. (Board Review 20)
 - § 87(2)(b)
- PO Raymond Ng has been a member-of-service for four years and has been the subject in one other CCRB complaint and four allegations, none of which were substantiated. § 87(2)(g)
- PO Renan Darbouze has been a member-of-service for thirteen years and been the subject in one other CCRB complaint and one allegation, which was not substantiated. § 87(2)(g)
- PO Hector Nieves has been a member-of-service for three years and this is the first CCRB complaint to which he has been a subject.

Mediation, Civil and Criminal Histories

- This complaint was not suitable for Mediation.
- As of January 2, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards this to complaint (Board Review 21).

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
[REDACTED]
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[REDACTED]

Squad No.: _____

Investigator: _____

Signature _____ Print Title & Name _____ Date _____

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date